

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, <i>et al.</i>)	
)	
)	
Plaintiffs,)	No. 1:14-cv-254
)	
v.)	
)	
UNITED STATES OF AMERICA, <i>et al.</i>)	
)	
Defendants.)	
)	

DEFENDANTS' MAY 7 ADVISORY

Defendants file this Advisory to apprise the Court of information that came to the attention of Department of Justice counsel yesterday, May 6, 2015, concerning the Department of Homeland Security's ("DHS") compliance with the Court's February 16, 2015 preliminary injunction. Specifically, and as described further below, United States Citizen and Immigration Services ("USCIS"), while preparing notifications to a small number of individuals who had erroneously been given three-year terms of work authorization after the issuance of the injunction, discovered that another group of approximately 2000 individuals had been erroneously sent three-year work authorizations after the Court had issued its injunction. The Government sincerely regrets these circumstances and is taking immediate steps to remedy these erroneous three-year terms.

Defendants previously advised the Court that, after entry of the preliminary injunction, USCIS ceased according three-year terms of deferred action, as well as three-year Employment Authorization Documents ("EADs"), to individuals who had requested deferred action under the 2012 DACA eligibility criteria, with the exception of approximately 55 individuals who

erroneously received three-year EADs issued after the injunction was entered. *See* Defs.’ Mar. 3 Advisory, ECF No. 176, at 2; Defs.’ Supp. to Stay Mot., ECF No. 195, at 3; Mar. 19, 2015 Tr. at 35; Defs.’ Resp. to Court’s Order of April 7, 2015 at 16 n.19, 18 n.12.¹

Defendants also previously advised the Court that there were a number of applicants who had requested deferred action under the 2012 DACA guidelines and had been approved prior to the February 16, 2015 preliminary injunction, but who had not yet been issued EADs at the time of the injunction. DHS believed, and, through counsel, reported to the Court, that those pending cases were put on hold as of the time of the injunction to prevent documentation associated with three-year terms from being sent. *See* Mar. 19 Tr. at 35 (discussing “about 750” cases “in the pipeline” for 2012 DACA on the day the injunction was issued); *see also* Mar. 3 Advisory at 2 & n.1. DHS now believes that approximately 2000 individuals (in addition to the much smaller number of individuals approved for three-year deferred action post-injunction, as discussed above), all of whom were eligible under the 2012 DACA eligibility guidelines, actually received three-year EADs after the injunction issued. DHS is already in the process of converting these three-year terms into two-year terms. The Secretary of Homeland Security also has asked the DHS Inspector General to investigate the issuance of these three-year EADs.

The Government sincerely regrets these circumstances and is taking prompt corrective steps, while gathering additional information about these issues, including how these errors occurred. The Government will supplement this Advisory with additional details as soon as they are available, and by no later than May 15, 2015.

¹ DHS believes that the number of applicants whose requests have been adjudicated and have received three-year terms and EADs post-injunction is now 72, due to additional errors that occurred after the 55 previously reported to the Court.

To the extent Plaintiffs believe additional time is necessary to respond to the Court's Order of April 7, 2015, in light of this information and the current May 11, 2015 due date for their submission, Defendants would consent to granting Plaintiffs such relief.

Date: May 7, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendants' May 7 Advisory has been delivered electronically on May 7, 2015, to all counsel of record through the court's ECF system.

/s/ Bradley H. Cohen
Counsel for Defendants